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Filing date:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058143
Party	Plaintiff Van de Wall B.V.
Correspondence Address	KUROSH NASSERI LAW OFFICES OF KUROSH NASSERI PLLC 3207A M STREET NW, 3RD FLOOR WASHINGTON, DC 20007 UNITED STATES babatunde@kurosh.net, mail@kurosh.net
Submission	Motion to Compel Discovery
Filer's Name	Babatunde Williams
Filer's e-mail	mail@kurosh.net, babatunde@kurosh.net, michelle@kurosh.net
Signature	/Babatunde Williams/
Date	05/26/2015
Attachments	CancelNo92058143-PsMotionToCompelDiscovery-Signed.pdf(1865246 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

VAN DE WALL B.V.

Petitioner.

٧.

Cancellation No. 92058143

D-MINOR, INC.

Respondent.

PETITIONER'S MOTION TO COMPEL DISCOVERY

Pursuant to TBMP § 523 and 37 C.F.R. § 2.120(e), VAN DE WALL B.V. ("Petitioner") respectfully moves the Board to compel D-MINOR, INC. ("Respondent") to respond to written discovery requests, and produce responsive, non-privileged documents and a privilege log. In support of this motion, Petitioner states as follows:

BACKGROUND

On November 1, 2013, Petitioner filed the petition to cancel the registration for Respondent's AFROJACKS mark (Cancellation No. 92058143). Pursuant to the schedule as reset in the Board Order dated August 15, 2014, discovery opened in this proceeding on September 3, 2014. Petitioner served Petitioner's First Set of Interrogatories and Petitioner's First Set of Requests for Production of Documents (collectively, "Petitioner's Discovery Requests") on January 27, 2015. See Exhibit A, Petitioner's First Set of Interrogatories and Petitioner's First Set of Requests for Production of Documents. Pursuant to the schedule as set forth in the stipulated motion to suspend dated February 27, 2015, and as reset in accordance therewith in the Board Order also dated February 27, 2015, the deadline for responding to Petitioner's Discovery Requests was on May 4, 2015, inclusive of the additional five days provided under 37 C.F.R. § 2.119(c). As of the present date, Respondent has failed to respond to Petitioner's Discovery Requests.

¹ On February 26, 2015, Respondent emailed Petitioner to request an extension of time to serve responses to Petitioner's Discovery Requests. The parties stipulated to a 30-day suspension of proceedings to engage in settlement discussions and Respondent filed the stipulated motion to suspend proceedings on February 27, 2015, which was granted by the Board on the same day. The settlement discussions were not successful, and proceedings resumed on March 30, 2015. Respondent was afforded an additional 30 days from the resumption of proceedings to respond to any outstanding discovery requests.

Petitioner has made a good faith effort, via phone and multiple emails, to resolve directly with Respondent the issues presented in this motion but has been unable to do so. On May 11, 2015, counsel for Petitioner called counsel for Respondent to inquire as to why the responses were overdue, and when Petitioner could expect to receive them. Counsel for Respondent replied that, to his knowledge, responses to Petitioner's Discovery Requests were served along with Respondent's discovery requests.² Counsel for Respondent then stated that he would "re-email" the responses later in the week. Counsel for Petitioner informed counsel for Respondent that the responses were now considered late, and that based on the statements made by counsel for Respondent, Petitioner expected to receive the responses by the close of business on May 15, 2015.

Shortly after Petitioner's phone call on May 11, 2015, Petitioner followed up via email to confirm that (i) although Petitioner received courtesy copies of Respondent's discovery requests via email on April 3, 2015, after the close of discovery on April 1, 2015, that email did not include any responses to Petitioner's Discovery Requests; (ii) Petitioner did not receive any other emails containing responses to Petitioner's Discovery Requests or otherwise receive any responses to Petitioner's Discovery Requests; and (iii) Petitioner expected to receive responses to Petitioner's Discovery Requests by the close of business on May 15, 2015. See Exhibit B, Email dated May 11, 2015, from Petitioner to Respondent. Petitioner has not received a reply to this email.

On May 18, 2015, Petitioner followed up with a second email to notify Respondent that Petitioner still had not received any responses to Petitioner's Discovery Requests, and to request that Respondent email a courtesy copy of the responses to Petitioner at that time. See Exhibit C, Email dated May 18, 2015, from Petitioner to Respondent. Petitioner has not received a reply to this email.

Over three weeks have passed since responses to Petitioner's Discovery Requests were due.

Respondent has not requested any additional extensions or raised any objections to Petitioner's Discovery Requests.

ARGUMENT

² Respondent's discovery requests were served via email on April 3, 2015, after the close of discovery on April 1, 2015, and included certificates of service by first class mail (but not email), signed by counsel for Respondent, dated March 30, 2015. However, Petitioner never received paper copies of Respondent's discovery requests.

TBMP § 523.01 provides that "[in] inter partes proceedings before the Board, a motion to compet is available in the event of a failure to provide required disclosures or discovery requested by means of discovery depositions, interrogatories, and requests for production of documents and things." If any party "fails to answer any interrogatory, the party seeking discovery may file a motion with the Board for an order to compel an answer. Similarly, if any party fails to produce and permit the inspection and copying of any document or thing, the party seeking discovery may file a motion for an order to compel production and an opportunity to inspect and copy." See TBMP § 411.02. In addition, a party which "fails to respond to interrogatories or document requests during the time allowed therefor, and which is unable to show that its failure was the result of excusable neglect, may be found, upon motion to compel filed by the propounding party, to have forfeited its right to object to the discovery request on its merits." See TBMP § 403.03.

Respondent's failure to timely serve <u>any</u> responses to Petitioner's Discovery Requests directly violates Respondent's obligations under 37 C.F.R. § 2.120(a)(3). If the statements made by counsel for Respondent during the May 11, 2015, phone call are taken as true, responses to Petitioner's Discovery Requests have been prepared since at least as early as April 3, 2015. Accordingly, Respondent is without any justification for its failure to timely serve its responses, or for withholding its responses after being notified on May 11, 2015, that Petitioner had not received them.

Petitioner has been prejudiced by Respondent's failure to respond to Petitioner's Discovery Requests because Petitioner is unable to obtain the facts required to confirm Petitioner's allegations in the petition to cancel and sufficiently prepare for its trial period, which is scheduled to commence on June 1, 2015.

Because Petitioner's good faith effort to resolve the matter directly with Respondent via phone and multiple emails was unsuccessful, Petitioner hereby requests that the Board compel Respondent to respond to Petitioner's Discovery Requests.

CONCLUSION

Petitioner respectfully requests that the Board issue an order compelling Respondent to respond to Petitioner's Discovery Requests in accordance with the requirements of 37 C.F.R. § 2.120(a)(3),

without objection on the merits, and serve such responses in accordance with the requirements of 37 C.F.R. § 2.119.

Petitioner also respectfully requests that the Board suspend this case pending the Board's decision concerning this motion, pursuant to TBMP § 523.01 and 37 C.F.R. § 2.120(e)(2), and that the trial dates be reset thereafter as appropriate.

Dated: May 26, 2015

Kurosh Nasseri

Babatunde Williams

Law Offices of Kurosh Nasseri PLLC 3207a M Street, NW 3rd Floor Washington, DC 20007 Telephone: (202) 457-0808

Fax: (202) 457-0909

Email: mail@kurosh.net, babatunde@kurosh.net

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I do hereby certify that on this 26th day of May, 2015, a copy of the foregoing PETITIONER'S MOTION TO COMPEL DISCOVERY has been sent to counsel for Respondent by first class mail, postage prepaid, in an envelope addressed to:

Leslie A. Thompson, Esq. Leslie A. Thompson & Associates 1629 K Street NW, Suite 300 Washington, DC 20006

I do hereby further certify that on this 26th day of May 2015, a courtesy copy of the foregoing PETITIONER'S MOTION TO COMPEL DISCOVERY has been sent to counsel for Respondent by email to the following email address:

lat@thompsoniplaw.com

Michelle Katz

5/26/15

EXHIBIT A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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Petitioner.

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Cancellation No. 92058143

D-MINOR, INC.

Respondent.

PETITIONER'S FIRST SET OF INTERROGATORIES

Petitioner VAN DE WALL B.V. ("Petitioner") hereby submits for answer by respondent D-MINOR, INC. ("Respondent") the following interrogatories pursuant to Patent and Trademark Office Rule 2.120 and Rule 33 of the Federal Rules of Civil Procedure.

DEFINITIONS

In the following interrogatories, the terms "document" and "documents" shall include, without limitation, originals and copies of all correspondence, literature, papers, memoranda, reports, notes, diaries, messages, telegrams, books, letters, ledgers, drawings, photographs, publications, advertisements, brochures, price lists, recordings, and any other writings.

In the following interrogatories, the terms "identify" and "state the identity of" shall mean a complete identification to the full extent known or ascertainable by Respondent, whether or not in the possession of Respondent and whether or not alleged to be privileged, including the following information:

- A. The present depository or depositories and the name and address of the persons having custody of any item to be identified unless the item is a patent, public document, or person;
- B. Where the item to be identified is a person, his full name, address, job title, and present employer;

- C. Where the item to be identified is a document or paper, its character, title, date, addressee, or recipient, and author, signatory, or sender; and
- D. Where the item to be identified is printed material, its title, author, publication date, volume, and the relevant page numbers. The term "person" shall mean and include any natural person, business organization such as a corporation, partnership or the like.

In the following interrogatories, if privilege is alleged as to information or materials or if an interrogatory is otherwise not answered in full, state the specific grounds for not answering in full and answer said interrogatory to the extent to which it is not objected including the identification of all information or materials for which privilege is claimed.

INTERROGATORIES

- If Respondent offers any type of service under the designation "AFROJACKS" other than the services specified in Respondent's trademark registration No. 3,556,451, please state all relevant facts and circumstances in connection therewith.
- Describe in detail the basis for the first use dates alleged in Respondent's trademark registration
 No. 3,556,451, namely, June 14, 2007.
- Identify all documents, purchase orders, invoices, labels, or any writings whatsoever which
 Respondent will rely upon to establish the first use dates alleged in Respondent's trademark
 registration No. 3,556,451, namely, June 14, 2007.
- Identify and describe the channels of distribution of each type of service specified in
 Respondent's trademark registration No. 3,556,451, provided under the mark "AFROJACKS".
- List all geographical areas (by city and/or state) in which Respondent provides each type of service specified in Respondent's trademark registration No. 3,556,451, under the mark "AFROJACKS".
- For each year between January 23, 2012 and January 23, 2015, list all newspapers in which
 Respondent has advertised each type of service specified in Respondent's trademark registration
 No. 3,556,451, under the mark "AFROJACKS".

- 7. For each year between January 23, 2012 and January 23, 2015, list all radio and/or TV stations where Respondent has advertised each type of service specified in Respondent's trademark registration No. 3,556,451, under the mark "AFROJACKS".
- 8. For each year between January 23, 2012 and January 23, 2015, list all other media, not already identified in Interrogatory Nos. 6 and 7, where Respondent has advertised each type of service specified in Respondent's trademark registration No. 3,556,451, under the mark "AFROJACKS".
- 9. For each year between January 23, 2012 and January 23, 2015, state the amount expended by Respondent on the advertisement of each type of service specified in Respondent's trademark registration No. 3,556,451.
- For each year between January 23, 2012 and January 23, 2015, state the amount of gross income derived by Respondent from each type of service specified in Respondent's trademark registration No. 3,556,451.
- 11. For each year between January 23, 2012 and January 23, 2015, identify by name and address all person(s) or organizations(s) that have been responsible for advertising each type of service specified in Respondent's trademark registration No. 3,556,451, provided under the mark "AFROJACKS".
- 12. If Respondent sells and/or distributes any type of goods under the designation "AFROJACKS", please state all relevant facts and circumstances in connection therewith.
- 13. If Respondent made any use of the term "AFROJACKS" prior to the first use dates alleged in Respondent's trademark registration No. 3,556,451, namely, June 14, 2007, please state all relevant facts and circumstances in connection therewith.
- Identify all documents, purchase orders, invoices, labels, or any writings whatsoever which
 Respondent will rely upon to establish any first use dates alleged in answer to Interrogatory No.
 13.
- 15. List any media where Respondent advertised any goods and/or services under the designation "AFROJACKS" prior to the first use dates alleged in Respondent's trademark registration No. 3,556,451, namely, June 14, 2007.

- Describe all instances of actual confusion known to Respondent between the sources of Petitioner's services and/or goods and any or all of the services specified in Respondent's trademark registration No. 3,556,451.
- 17. If Respondent has ever filed a trademark application for a mark including the word "AFROJACKS" for use in connection with musical sound recordings and/or audio-visual recordings, please state the serial number of each such application.
- 18. If Respondent has ever filed a trademark application for a mark including the word "AFROJACKS" for use in connection with music production, please state the serial number of each such application.
- 19. If Respondent has ever filed a trademark application for a mark including the word "AFROJACKS" for use in connection with live musical performances and/or the playing of live and recorded music by a disc jockey, please state the serial number of each such application.
- 20. Describe in detail why the trademark assignment recorded in the Assignment Branch on September 9, 2008 at Reel 3849, Frame 0558, was entered into between Lachesis Corp., on the one hand, and Mike Antonecchia and Brett Tobano, on the other hand.
- 21. Describe in detail why the trademark assignment recorded in the Assignment Branch on March 19, 2009 at Reel 3955, Frame 0813, was entered into between Mike Antonecchia and Brett Tabano, on the one hand, and D-Minor, Inc., on the other hand.
- 22. State the exact date on which Respondent's "AFROJACKS" website was first launched?
- 23. State the web address for Respondent's "AFROJACKS" website identified in answer to Interrogatory No. 22.
- 24. State the exact date on which the web address for Respondent's "AFROJACKS" website identified in answer to Interrogatory No. 22 was acquired?
- 25. If Respondent's "AFROJACKS" website has been or is currently accessible from any web address(es) other than the web address identified in answer to Interrogatory No. 23, please list all such alternate web addresses.

- 26. State the exact date on which each alternate web address in answer to Interrogatory No. 25 was acquired?
- 27. State the exact date on which each alternate web address identified in answer to Interrogatory

 No. 25 was first used?
- 28. If the subject matter, theme or focus of Respondent's "AFROJACKS" website has changed since January 23, 2012, please state all relevant facts and circumstances in connection therewith.
- 29. If the types of information and/or materials Respondent posts on Respondent's "AFROJACKS" website have changed since January 23, 2012, please state all relevant facts and circumstances in connection therewith.
- 30. Please describe in detail the process by which Respondent selects the information and materials published on Respondent's "AFROJACKS" website.
- 31. If the frequency with which Respondent posts information and/or materials on Respondent's "AFROJACKS" website has changed since January 23, 2012, please state all relevant facts and circumstances in connection therewith.
- 32. How often has Respondent posted information and/or materials on Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015?
- 33. State the total number of posts by Respondent (audio clips, video clips, photographs and other entertainment information and/or multimedia materials) on Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.
- 34. State the exact date(s) on which Respondent made the posts identified in answer to Interrogatory No. 33.
- 35. State the number of unique visitors per month for Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.
- 36. State the total number of subscriptions for Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.

- 37. If any subscriptions in answer to Interrogatory No. 36 are paid subscriptions (as opposed to unpaid subscriptions), state the number of paid subscriptions and the total amount of subscription revenue Respondent has generated through such paid subscriptions.
- 38. State the total number of advertising, sponsorship and/or endorsement contracts Respondent has entered into for third party use of advertising space on Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.
- 39. State the total amount of advertising, sponsorship and/or endorsement revenue Respondent has generated through Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.
- 40. If Respondent made any use of the term "AFROJACKS" in connection with any website(s) and/or blog(s) other than Respondent's "AFROJACKS" website identified in answer to Interrogatory No.
 22. please state all relevant facts and circumstances in connection therewith.
- 41. Please identify which, if any, of the following content providers have placed content with Respondent between January 23, 2012 and January 23, 2015: Turner Broadcasting (veryfunnyads.com), The Laugh Factory, Earshot Media, Red Music, ABC PR, CornerStone, Universal Music, Sony Music, XO Publicity & The Syndicate, Sports Illustrated, 'Stache media, Red Music, Victory Records, Magnum PR, The Musebox, Sound and Vision PR, Foundry Music (Opie and Anthony), The Press House, PAI Media, Alternate Distribution Alliance, ABC-pr, Wolfgang's Vault, Big Machine Media, B.B. King Blues Club, Roadrunner Records, VICE
- 42. Please identify which, if any, of the following advertisers have placed advertisements with Respondent between January 23, 2012 and January 23, 2015: Axe, Degree, Activision (DJ Hero), Gillette, GameStop, EA Sports, MTV2, Virgin Mobile
- 43. List all music videos Respondent has posted on Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.
- 44. List all artist interviews Respondent has posted through Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.

- 45. List all music reviews Respondent has posted on Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.
- 46. List all tour information Respondent has posted on Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.
- 47. List all other types of information and/or materials not specified in Interrogatory Nos. 43 through
 46 that Respondent has posted on Respondent's "AFROJACKS" website between January 23,
 2012 and January 23, 2015.
- 48. If any of the information and/or materials identified in answer to Interrogatory Nos. 43 through 47 are created, prepared, produced, conducted, authored or otherwise obtained from or provided by a third party source, please state all relevant facts and circumstances in connection therewith.
- 49. List all exclusive giveaways Respondent has conducted through Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.
- 50. If Respondent has ever produced or recorded music, please state all relevant facts and circumstances in connection therewith.
- 51. If Respondent has ever distributed recorded music, please state all relevant facts and circumstances in connection therewith.
- 52. If Respondent has ever curated recorded music, please state all relevant facts and circumstances in connection therewith.

Dated: January 27, 2015

Kurøsh Nasseri

Babatunde Williams

Law Offices of Kurosh Nasseri PLLC 3207a M Street, NW 3rd Floor Washington, DC 20007 Telephone: (202) 457-0808

Fax: (202) 457-0909

Email: mail@kurosh.net, babatunde@kurosh.net

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I do hereby certify that on this 27th day of January, 2015, a copy of the foregoing PETITIONER'S FIRST SET OF INTERROGATORIES has been sent to counsel for Respondent by first class mail, postage prepaid, in an envelope addressed to:

Leslie A. Thompson, Esq. Leslie A. Thompson & Associates 1629 K Street NW, Suite 300 Washington, DC 20006

I do hereby further certify that on this 27th day of January 2015, a courtesy copy of the foregoing PETITIONER'S FIRST SET OF INTERROGATORIES has been sent to counsel for Respondent by email to the following email address:

Michelle Katz

1/27/15

lat@thompsoniplaw.com

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

VAN DE WALL B.V.

Petitioner.

٧.

Cancellation No. 92058143

D-MINOR, INC.

Respondent.

PETITIONER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

Petitioner VAN DE WALL B.V. ("Petitioner"), hereby requests that respondent D-MINOR, INC. ("Respondent") produce at the Law Offices of Kurosh Nasseri PLLC, 3207a M Street NW, Third Floor, Washington, DC 20007, and permit Petitioner to inspect and copy documents and objects listed below in each of the categories pursuant to Patent and Trademark Office Rule 2.120 and Rule 34 of the Federal Rules of Civil Procedure.

DEFINITIONS

- A. As used herein, the term "Respondent" includes Respondent, D-Minor, Inc., and its predecessors in interest.
- B. As used herein, the term "documents" includes, but is not limited to, all writings, notes, notations, correspondence, invoices, contracts, purchase orders, memoranda, books, pamphlets, publications, studies, reports, labels, packaging, artwork, tear sheets, proofs, displays, photographs, videotapes, models, films, drawings, sketches, illustrative materials, magnetic recording tapes, microfilms, and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded or reproduced by any mechanical, electronic or magnetic process.
- C. If Respondent claims privilege in respect to any documents requested, the following information is requested:
 - 1. The basis for the privilege;

- 2. The date of the document;
- 3. The originator of the document, to whom it is addressed and all persons who were given copies; and
- 4. A general description of the type of document and the subject matter to which it pertains.
- D. As used herein, "and", as well as "or", shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the request all documents which might otherwise be construed to be outside its scope.
- E. As used herein, the singular shall include the plural, and the present tense shall include the past tense.
- F. As used herein, "AFROJACKS mark" includes any and all marks comprising AFROJACKS alone or in combination, or any similar marks.

REQUESTS FOR PRODUCTION

- 1. All documents evidencing, relating to or referring to the trademark assignment recorded in the Assignment Branch on September 9, 2008 at Reel 3849, Frame 0558, between Lachesis Corp., on the one hand, and Mike Antonecchia and Brett Tobano, on the other hand.
- 2. All documents evidencing, relating to or referring to the trademark assignment recorded in the Assignment Branch on March 19, 2009 at Reel 3955, Frame 0813, between Mike Antonecchia and Brett Tabano, on the one hand, and D-Minor, Inc., on the other hand.
- 3. All documents which refer or relate to marketing studies conducted by, or caused to be conducted or obtained for Respondent which relate to the use of the AFROJACKS mark.
- 4. All documents which refer or relate to focus group studies conducted by, or caused to be conducted or obtained for Respondent which relate to the use of the AFROJACKS mark.
- 5. All documents which refer or relate to polls or surveys conducted by, or caused to be conducted or obtained for Respondent which relate to the use of the AFROJACKS mark.

- 6. All documents which refer or relate to the date and manner of first use of the AFROJACKS mark in connection with each type of service specified in Respondent's trademark registration No. 3,556,451, offered by Respondent.
- 7. All documents which refer or relate to the date and manner of first use of the AFROJACKS mark in connection with any type of service other than the services specified in Respondent's trademark registration No. 3,556,451, offered by Respondent.
- 8. All documents which refer or relate to the date and manner of first use of the AFROJACKS mark in connection with any goods sold and/or distributed by Respondent.
- 9. All documents which refer or relate to a likelihood of confusion or instances of actual confusion of Respondent's use of the AFROJACKS mark and Petitioner's use of the "AFROJACK" mark.
- 10. All documents which refer or relate to any registration to do business or attempt to register to do business by Respondent using the AFROJACKS mark, regardless of whether said application was granted or denied, ever filed with any state officer or agency in the United States.
- 11. All documents which refer or relate to each complaint, objection, opposition, administrative or civil action or other controversy involving Respondent's use of the AFROJACKS mark excluding the present cancellation proceeding between Petitioner and Respondent (Cancellation No. 92058143).
- 12. All documents which refer or relate to the marketing, distribution, sale, advertising, or promotional materials used by Respondent which refer or relate to Respondent's use of the AFROJACKS mark prior to the first use dates alleged in Respondent's trademark registration No. 3,556,451, namely, June 14, 2007.
- 13. All documents which refer or relate to the marketing, distribution, sale, advertising, or promotional materials used by Respondent which refer or relate to Respondent's use of the AFROJACKS mark between January 23, 2012 and January 23, 2015.
- 14. All documents which refer or relate to any plans of Respondent to expand, including, but not limited to, expansion of services, customer base or geographical areas served.

- 15. All documents which refer or relate to any authorization, license, franchise, assignment or grant from Respondent to another person or entity giving the other person or entity the right to use the AFROJACKS mark, and market products or services under the AFROJACKS mark.
- 16. All documents which refer or relate to any instance of confusion, deception, or mistake which have, or may have occurred regarding the source, sponsorship, or approval of Respondent's services offered under the AFROJACKS mark, and those offered by Petitioner, licensed by Petitioner, or are in some way legitimately connected with Petitioner.
- 17. All documents which evidence, refer or relate to any trademark applications filed by Respondent for a mark that included the word "AFROJACK".
- 18. All documents which evidence, refer or relate to the registration of any domain name(s) by Respondent that included the word "AFROJACK".
- 19. All documents which evidence, refer or relate to verifiable website traffic analytics and reporting for Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.
- 20. All documents which evidence, refer or relate to paid subscriptions and unpaid subscriptions for Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.
- 21. All documents which evidence, refer or relate to subscription revenue Respondent has generated through Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.
- 22. All documents which evidence, refer or relate to contracts Respondent entered into with advertisers, sponsors, endorsers and/or other third parties for such third party's use of advertising space on Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.
- 23. All documents which evidence, refer or relate to advertising, sponsorship and/or endorsement revenue Respondent has generated through Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.
- 24. All documents which evidence, refer or relate to contracts Respondent entered into with content providers for Respondent's use of music videos, artist interviews, music reviews, tour information and any other information and/or materials owned or controlled by such content providers on Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.

- 25. All documents which evidence, refer or relate to contracts Respondent entered into with advertisers, sponsors, endorsers and/or other third parties in connection with exclusive giveaways on Respondent's "AFROJACKS" website between January 23, 2012 and January 23, 2015.
- 26. All documents which evidence, refer or relate to distribution contracts Respondent entered into with any distributors of recorded music between January 23, 2012 and January 23, 2015.
- 27. All documents which evidence, refer or relate to vendor contracts Respondent entered into with any brick and mortar music retailers, online music retailers and/or any other recorded music retailers between January 23, 2012 and January 23, 2015.
- 28. All documents not specified above but which relate to, refer to, or are identified in Respondent's answers to Petitioner's first set of Interrogatories to Respondent.

Dated: January 27, 2015

By: ______Kurosh Nasser

Babatunde Williams//

Law Offices of Kurosh Nasseri PLLC 3207a M Street, NW 3rd Floor Washington, DC 20007 Telephone: (202) 457-0808

Fax: (202) 457-0909

Email: mail@kurosh.net, babatunde@kurosh.net

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I do hereby certify that on this 27th day of January, 2015, a copy of the foregoing PETITIONER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS has been sent to counsel for Respondent by first class mail, postage prepaid, in an envelope addressed to:

Leslie A. Thompson, Esq. Leslie A. Thompson & Associates 1629 K Street NW, Suite 300 Washington, DC 20006

I do hereby further certify that on this 27th day of January, 2015, a courtesy copy of the foregoing PETITIONER'S FIRST SET OF I REQUESTS FOR PRODUCTION OF DOCUMENTS has been sent to counsel for Respondent by email to the following email address:

lat@thompsoniplaw.com

EXHIBIT B

From: Babatunde Williams babatunde@kurosh.net

Subject: CANCELLATION NO. 92058143 - VAN DE WALL B.V. v. D-MINOR, INC.; Petitioner's Discovery Requests

Date: May 11, 2015 at 11:15 AM

To: Leslie A. Thompson, Esq. lat@thompsoniplaw.com

Cc: Kurosh Nasseri mail@kurosh.net

Leslie,

I am writing to follow up on my call earlier today.

When asked why responses to petitioner's discovery requests, which were due 30 days after resumption of proceedings on March 30, 2015, have not yet been sent to us, you claimed that to your knowledge the responses had been sent along with respondent's discovery requests.

To confirm, we received respondent's requests for admissions, interrogatories, and requests for the production of documents and things via email on April 3, 2015, after the close of discovery on April 1, 2015. No responses were attached to that email or any other email received from you, and to date we have not received any hard copies of any discovery requests or responses from you.

You stated that you would "re-email" the responses to us this week.

As I stated on the call, we now consider the responses to be late.

In order to resolve this matter, we expect to receive the responses, without objection on the merits, by the close of business this Friday, May 15.

Sincerely,

Babatunde

Babatunde Williams Law Offices of Kurosh Nasseri, PLLC 3207a M Street NW 3rd Floor Washington, DC 20007 USA

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EXHIBIT C

From: Babatunde Williams babatunde@kurosh.net

Subject: Re: CANCELLATION NO. 92058143 - VAN DE WALL B.V. v. D-MINOR, INC.; Petitioner's Discovery Requests

Date: May 18, 2015 at 2:51 PM

To: Leslie A. Thompson, Esq. lat@thompsoniplaw.com

Cc: Kurosh Nasseri mail@kurosh.net

Leslie,

Per my call and email on May 11, we were expecting to receive responses to petitioner's discovery requests, without objection on the merits, by the close of business last Friday, May 15.

However, we have not yet received the responses.

Please email to us at this time a courtesy copy of the responses you are filing.

Sincerely,

Babatunde

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On May 11, 2015, at 11:15 AM, Babatunde Williams <babatunde@kurosh.net> wrote:

Leslie,

I am writing to follow up on my call earlier today.

When asked why responses to petitioner's discovery requests, which were due 30 days after resumption of proceedings on March 30, 2015, have not yet been sent to us, you claimed that to your knowledge the responses had been sent along with respondent's discovery requests.

To confirm, we received respondent's requests for admissions, interrogatories, and requests for the production of documents and things via email on April 3, 2015, after the close of discovery on April 1, 2015. No responses were attached to that email or any other email received from you, and to date we have not received any hard copies of any discovery requests or responses from you.

You stated that you would "re-email" the responses to us this week.

As I stated on the call, we now consider the responses to be late.

In order to resolve this matter, we expect to receive the responses, without objection on the merits, by the close of business this Friday, May 15.

Sincerely,

Babatunde

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